



Costs Decision

Site visit made on 31 May 2022

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 17th August 2022

Costs application in relation to Appeal Ref: APP/G4620/W/22/3292884 160 Lightwoods Road, Smethwick B67 5AZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Bharat Pattni for a full award of costs against Sandwell Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for first floor and single storey rear extensions with rear dormer window to facilitate the proposed change of use from a dwellinghouse to 7 No. bedroom HMO – house in multiple occupation (pursuant to planning permission DC/21/65962).
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Decision

1. The application for the award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The applicant submits that the Council's reasons for refusal were not suitably justified, including not giving sufficient weight to the fallback position, and that the Council has been inconsistent in its decision-making, ultimately resulting in the refusal of an application which should have been allowed. The applicant finds that, in this way, the Council acted in an unreasonable way which caused unnecessary or wasted expense at appeal.
4. In issues relating to matters of living conditions and highway safety there is often a strong degree of judgement employed and the matters raised by the Council related to issues where there was a reasonable potential for difference of opinion. I am satisfied that the Council suitably justified its concerns within its submissions. This included detailing the existing conditions of the site and its surroundings, the contents of the works and highlighting issues which it considered would compromise the living conditions of neighbours and highway safety. The Council, to this extent, justified their decision-making.
5. However, it is not clear from the Council's Report to Planning Committee or Minutes of Planning Committee that they considered the applicant's fallback argument. In particular, neither document makes direct reference to the

matter. Whilst the Council may have been mindful of the fallback position, by not referring to it prior to the appeal, the Council did not fully justify their decision-making. Therefore, the Council's decision, by not clearly considering the fallback position, would have likely resulted in a sense of doubt in the applicant as to whether the planning application should have been refused.

6. Therefore, although I have found differently to the applicant, in dismissing the appeal, I nevertheless find that the Council's actions made the submission of the appeal necessary to seek confidence in the planning decision. Had the Council clearly considered the fallback position the entire appeal could have been avoided and so, in this way the Council have acted unreasonably and caused the applicant wasted expense in the submission of the appeal.
7. From the information available to me, and as all proposals need to be considered on their own merit, I find that the Council's decision was not inconsistent with their other decisions.
8. Nevertheless, in light of the above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Sandwell Metropolitan Borough Council shall pay to Mr Bharat Pattni, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Sandwell Metropolitan Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Samuel Watson

INSPECTOR